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*Received at  
Jan. 14. 1872.*



IN RELATION TO  
OCCURRENCES AT  
MAGDALENA BAY,  
LOWER CALIFORNIA,  
MEXICO.

1871.

*compiled by Drake DeKay*

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SAN FRANCISCO, CALIFORNIA

December 8th, 1871.

TO HIS EXCELLENCY,

HAMILTON FISH,

SECRETARY OF STATE,

WASHINGTON D. C.

SIR:

Herewith I have the honor to transmit correspondence, protests, and documents relating to the occurrences at Magdalena Bay, Lower California, of which I advised the Department of State by telegraph from San Diego, on 26th ult.

Duplicate of this correspondence goes forward on the 16th inst. to Hon. Thomas H. Nelson, U. S. Minister at the City of Mexico.

I ~~shall~~ have the honor to be

Your very obedient servant,

DRAKE DE KAY,

U. S. Consul at Magdalena.

ception of a few who feared being fired into coming off, and placed the vessel alongside the British vessel *Comadre*, claiming the protection which was readily granted of the British flag and the physical defense of British seamen, and to here remain until the arrival of a United States man of war, now hourly expected.

The notoriously desperate and unscrupulous character of Mr. M. J. Cobos who headed your party, and the well known expressed hostility to "Americans" of Mr. Gorostiza, led us all to regard with much trepidation your approach from La Paz with a body of toops; this anxiety was increased by the warnings of the only Mexican official here, who was better acquainted with the customs of the country than we strangers can be, and of the intrigues on foot for the monopolizing of trade here, and the eventual revolutionizing of the peninsula. We therefore adopted the best means of defending ourselves from attack, first agreeing that in no wise would we interfere in any question of authority as between Mexican officials; this neutrality was strictly adhered to as you are aware. At 3½ o'clock this morning under cover of the darkness, you captured the schooner *Cina Greenwood*, an American vessel, embargoed by the Mexican Government for debt claimed to be due its treasury, as she lay off in the bay, without first applying to the representative here of the Mexican Government, Señor Mendizabal, your boarding party, headed by your Mr. M. J. Cobos, who presented a pistol at the head of an American citizen (employed on board), as a *warrant* from the



Mexican Government to take possession of her. Notwithstanding this most warlike procedure your boat was simply hailed on its approach to shore and on the reply of *employés of the Mexican Government*, no opposition was made to its landing, we deeming such imprudence more advisable than to run the risk of resisting that which might prove actual Mexican authority.

You inquired for the Collector of the port, and were informed that upon the capture of the *Cina Greenwood*, he had for his personal security moved his custom house and flag and archives on board the British ship *Comadre*, asking British protection, not believing that the sacredness of the United States Consulate under which he had already sheltered himself, would be respected by your party. Later, we met on board the *Comadre*: I, speaking for the Americans present, informed you that we had nothing to do with the question of Mexican authority, that we only desired to be let alone, and as soon as possible be informed to which Collector we should give obedience. Your Mr. Cobos and Mr. Gorostiza then promised on pledge of honor that no steps should be taken and nothing whatever done or said until the day following, when a meeting should be held by the Collector and the claimant of the Collectorship, at which should assist the Consul and such other parties as were interested in the question of authority, and that then the documents of Mr. Gorostiza should be exhibited authenticating his claim. On this promise our uneasiness was somewhat relieved, but shortly after, you dispatched the

*Cina Greenwood* to Cayuco for some forty or fifty soldiers, taking with her several Americans as prisoners (one reported to be bound.) In virtue of the facts that this number of soldiers was more than five times that of Americans here; that these Americans were pledged as strictly neutral; that the Collector was beyond arrest; that you were continually receiving by land accessions of armed men; that you had dispatched your boat to Clark's Lagoon for a still larger force; the bringing of these men and soldiers could bear or admit of but one construction. Later, and contrary to the aforesaid pledge, you proceeded to take possession of boats and property of the Custom House, and at dark of the evening placed a guard of some six or eight men in front of our quarters, nominally to watch goods, but in reality, as there was good cause to believe, as a guard over, and menace to us. Our inferences proved to be correct upon our commencing to embark.

In violation of said pledge, between 9 and 10 o'clock this evening you sent the Captain of the American schooner *Ellen and Catharine* a notice from your Mr. Gorostiza, as Collector of the port, that said vessel could not leave without the customary Custom House formalities. The vessel being at the time quietly moored to the beach and no evidence of any intention to go to sea. She had been provisioned and watered to-day, but as that had been agreed upon between us, it could not be claimed as showing any intention of sailing.

These and other circumstances too tedious to enumerate, and the information we received from

your camp, which, being verbal, cannot properly here be set forth, rendered evident the great danger in which we were placed, of violence and outrage upon the arrival of your additional forces, and compelled us to this step, which is most painful to me officially, and inconvenient to the rest of the Americans. Having hastily got together [arms, a few personal effects, and the Consular property," and while proceeding to embark on board the schooner, some three of your sentinels proceeded promptly to your camp to warn you of the fact. Some of the Americans fearing pursuit and immediate violence retired to the hillside, the rest of us leaping on board, cut the hawser, hoisted sail and started for the ship *Comadre*, pursued by two of your boats filled with soldiers, and you the leaders, all armed with guns and revolvers: we ran a line to the ship and got alongside of her just as one of your boats ran under our stern and the other alongside of us, and had just time to hail the Captain and claim the protection of his flag, and offer the reciprocal protection of our flag and arms. Five minutes delay would unquestionably have resulted in a collision that could not but have been sanguinary and resulting in international complications, and probably horrid war between two great Republics.

Deeply regretting that your precipitate procedures should have brought about this most unhappy state of affairs, I have the honor, gentlemen, to be your most obedient servant,

[Signed]

DRAKE DE KAY,  
U. S. Consul at Magdalena,

[Consular  
Seal.]

P. W. VAN WINKLE,  
U. S. Vice-Consul, Man-of-War Bay.

## Exequatur.

[*Translation.*]

BENITO JUAREZ,  
Constitutional President  
of the United Mexican States.

Having seen the commission which the President  
of the United States of America, issued under date  
of 1st June last, to

MR. DRAKE DE KAY,  
appointing him Consul of the United States, in  
Magdalena, Lower California, I concede to him the  
present

### EXEQUATUR,

In accordance with article four of the law of 26th  
November, 1859, in virtue of which Mr. Drake  
De Kay can enter upon the exercise of his duties.

Given in the City of Mexico, signed with my  
hand, authorized with the great seal of the nation,  
and countersigned by the Secretary of State and  
Foreign Affairs, this 28th of July, 1870.

[Signed.]

BENITO JUAREZ.

[Countersigned.]

S. LERDO DE TEJADA.

Minister of Foreign Affairs.

GREAT SEAL }  
OF THE NATION }

[*Translation.*]

Political Government and  
Military Commandancy of  
Lower California.

La Paz, June 30th, 1871.

TO THE SECRETARY OF THE LOWER CAL. CO.,  
Port of Magdalena.

The Supreme Government has appointed as Contador of the Custom House of the port of Magdalena

MR. FRANCISCO JIMENEZ MENDIZABAL,

Who, to-day leaves this city for the said port, to take charge as such of the said Custom House, on account of

MR. FRANCISCO E. GOROSTIZA'S

having resigned his nomination as administrator of that office.

In consequence, all the consideration will be extended to Mr. Mendizabal, which is due to the official character with which he is invested, for which object this Government has deemed it proper to address to you this letter, which will be handed you, open, by the said Mr. Jimenez.

\* \* \* \* \*

Independence and liberty.

[Signed.]

B. DAVALOS,

Political Chief and Military Commandante  
of Lower California.

[Signed.]

RAMON MARTINEZ.

Secretary.

A true copy of original filed in this Consulate.

[Signed.]

P. W. VAN WINKLE,

Vice Consul,

[SEAL.]

Man-of-War Cove, Magdalena,

October 9th, 1871.

[*Translation.*]

CUSTOM HOUSE OF THE PORT OF MAGDALENA, L. C.

Man-of-War Cove, 9th October, 1871.

TO THE

UNITED STATES CONSUL,

Resident in the Port of Magdalena.

Pending instructions from the Supreme Government of the Nation, to which I have given account of the acts of this office which is in my charge, I appeal to you, as Consul of the United States in this Port, to shelter under your American Flag both my person and the interests of the public treasury which I have in my charge, from any act of arbitrary character, and without authority of law, of the political and civil authorities of the Territory.

As already expressed, this shall only last until the Supreme Government of the Nation orders what should be done, to which also I report this step, inasmuch as my intention is solely to avoid an outrage brought about by the scandalous conduct of which Cobos and Monroy are guilty, with said authorities for the purpose of nulifying the procedures of this office against them as contrabandists, according to the Articles of the General Mar-

itime Ordinance, in their last importation of goods without legal documents, which they have made in the Equadorian brig *Amelia*.

Have the goodness to reply upon this subject to this Custom House, that it may take the measures necessary, and accept the assurance of my distinguished appreciation.

Independance and Liberty.

[Signed] FRANCISCO JIMENEZ MENDIZABAL.  
Collector of Customs.

U. S. CONSULATE,

At Magdalena, Lower California,

October 11th, 1871

SEÑOR DON

FRANCISCO JIMENEZ MENDIZABAL,

Collector of Customs, of the

Republic of Mexico, at the Port of Magdalena.

SIR :

I have the honor to own receipt of your letter of 9th inst., and to state that I place at your disposition the Consulate of the United States at this Port, and the moral protection of its Flag. By the next steamer I will communicate to my Government the unhappy state of affairs here, and ask the immediate presence of a vessel of war to protect the threatened lives and property of the officials of the friendly neighboring Republic of Mexico, and of the American citizens here resident.

I have the honor, my dear sir, to assure you of my sentiments of high appreciation and esteem.

Very Respectfully,

Your Obedient Servant,

[SIGNED]

DRAKE DE KAY.

{ CONSULAR SEAL }  
{ OF THE U. S. }

U. S. Consul  
At Magdalena.

TO DRAKE DE KAY, ESQ., U. S. CONSUL, AND  
P. W. VAN WINKLE, U. S. VICE CONSUL,  
FOR THE PORT OF MAGDALENA,  
LOWER CALIFORNIA.

SIRS:

The undersigned citizens of the United States at present residing and pursuing various occupations in Lower California, beg leave to represent that we came to this country relying upon the protection of the Mexican Government and under the inducements held out by that Government to settlers, and some of us under the auspices and protection of The Lower California Company.

That while legitimately pursuing our several avocations we were surprised by the introduction in our midst of an armed body of soldiers from La Paz, headed by one Manuel J. Cobos and Francisco E. Gorostiza, the latter claiming to be Collector of the Port of Magdalena.

That from the personal character of said named gentlemen, and their having, without exhibiting any authority so to do from the government of Mexi-



co, violently, with armed force, captured an American vessel, at the unusual and suspicious hour of 3 $\frac{1}{2}$  o'clock on the morning of the 28th of October (inst.) imperrilling the lives of innocent American citizens on board of said vessel, as passengers and employees, and after such capture, binding and imprisoning one [who attempted to defend the property] without authority of law, and the further facts

That you from well grounded fears of indignity, both to yourselves and the Consular flag were forced to transfer your Consulate from on shore to the American schooner *Ellen and Catherine*, and for greater security placing yourselves under the protection of the captain and officers of the British ship *Comadre*.

That while engaged in such transfer you were chased from on shore by two boats filled with armed soldiers and men headed by said Cobos and Gorostiza, who were also armed with revolvers, evidently for the purpose of capturing you with the archives of the Consulate.

That under all the above named circumstances, and the further fact that the parties above named have entirely ignored The Lower California Company, and publicly declared that the said Company has no rights within this territory, thereby depriving us of the protection that we supposed we should enjoy while residing here, and upon which we depended.

We are driven to the necessity of calling upon you as Consuls of the United States, and through you upon the Commander of the ship *Comadre*,

flying the flag of Great Britain, for protection, believing that without such protection our lives and property stand in peril of being sacrificed and squandered upon the merest pretext.

We also hereby take occasion to enter our solemn protest against the seizure of said American vessel the *Cina Greenwood*; against the unlawful imprisonment of American citizens; against the insults perpetrated upon the officers and flag of our country, as well as against the injury done to us by the interruption of our various employments, and against general molestation.

MAN-OF-WAR COVE,

MAGDALENA BAY, L. C

October 29<sup>th</sup> 1871.

N. R. DERING,	JOHN MOTT,
EDWARD GALLAGHER,	WM. H. TROON,
ROBERT S. MARTIN,	ANDREW OLSEN,
WM. H. MAYNE,	THOS. MASSON,
ALBERT R. PALMER,	CHARLES MEYER,
ANDREW HANSEN,	JOHN ANDERSON,
WASHINGTON V. PLICE,	J. C. GLIDDEN,
J. N. VANNOY,	J. P. MASSIE,
T. J. REILEY,	GEORGE SWAN,
EGBERT B. SMITH,	OLIVER E. ROBERTS,
JOHN NIMMO,	CHRISTOPHER SPEEN,
M. V. BROWN,	JOS. GLUECKSBERG,
ANICETO M. CORDOVA,	JOHN F. SELLENDER,

Sworn before Consul, etc.

(Consular Certificate, etc., etc.)

A true copy,

DRAKE DE KAY,  
U. S. Consul at Magdalena,  
Consular seal of the U. S.

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U. S. CONSULATE,  
On board Am. schr. *Ellen and Catharine*,  
Alongside British ship *Comadre*,  
Man-of-war Cove, Magdalena,  
Lower Cal., October 31st, 1871.  
MR. F. ESPINOSA Y GOROSTIZA,  
CONTADOR DE LA ADND. MTA. DE LA PAZ,  
CAMP OF MESSRS. COBOS & MONROY,  
MAGDALENA.

SIR:

Your letter of the 30th inst. is at hand, in which you inform me, as U. S. Consul, that you have suspended Señor Don Francisco Jimenez Mendizabal, who, by order of the Supreme Government, and recognized by it up to the 15th ultimo, date of last advices from the City of Mexico, is the Contador acting Collector of this port, and further, that you have assumed the Collectorship of this port, appointing Mr. Valente Sanchez, Contador, *vice* Jimenez Mendizabel, removed.

As U. S. Consul, and the only official representative of any foreign power in this port, I beg to state in reply that I cannot recognize your authority,

nor can I advise persons of other nationalities who have sought protection in this consulate from peril to lives and property, or asked my counsel, to in any way recognize you as having legal control in this port, inasmuch as you presented yourself here in the character of a pirate, surprising and capturing a vessel in the dead of night, with a body of sixteen or more armed foreigners, and as credentials of office clapped a cocked pistol to the head of an American citizen, after his hands had been tied behind his back, telling him that you were the Mexican Government; this American being the sole defender of the vessel against what, by his deposition, he considered a boat full of either thieves or pirates.

The same day, later, you pursued me, the U. S. Consul, and the U. S. Vice Consul, with consular flag and archives, accompanied by other American citizens and fleeing citizens of other nations, from the consulate on shore to this anchorage, with boats full of armed soldiers and armed foreigners, following me even upon the quarterdeck of the British ship *Comadre* with arms, violating not only the honor of the United States of America, but that of Great Britain, and compromising the fair name of the Mexican Republic.

Still later, when assuring you of the entirely neutral position and feelings of the Americans and English here, I asked you for them how we were to know to which Collector we were to yield obedience, you declared that you would not show any documents or credentials, and that we must recognize you because you had the force. (Porque tengo la fuerza.)

Neither you nor the soldiers under your orders fly the Mexican flag, nor is any evidence visible of your establishment of a Custom House.

All of the occurrences of the past few days and nights and the outrageous and disreputable proceedings of yourself and associates, will be promptly communicated to my Government in Washington—to the Minister of the United States in the city of Mexico for the information of the Supreme Government of the Republic—and in the absence of a British Consul at this port, to the Government of Great Britain, for the action of the three outraged nations.

Your obedient servant,

DRAKE DE KAY,

U. S. Consul at Magdalena.

P. W. VAN WINKLE,

U. S. Vice Consul at Man-of-War Cove.

*P. S.*—I enclose circular of Señor Don F. Jimenez Mendizabal, Collector of Customs, dated Oct. 30, 1871, marked "A".

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U. S. CONSULATE,

Magdalena Bay, Lower California,

October 31, 1871.

Before me, Drake De Kay, United States Consul, personally appeared Aniceto M. Cordova, a citizen of the United States, who, under oath makes the following statement:

I am one of the individuals captured by the Co-

bos and Gorostiza party on the evening of the 28th inst., being a passenger on board the American schooner *Cina Greenwood*; was made prisoner and was detained as such under military guard some thirty hours. After my examination and discharge, having a conversation with the Commandante of troops, he said: In respect to the expected Man-of-War, that if he had been Gorostiza, instead of siezing the *Cina Greenwood* he would have at once taken the Collector, and if the American Consul had said that he was under the protection of the American flag, he would reply, that HE was on his own ground, and that if the Man-or-War fired he would himself shoot the Collector, and assert that he was shot from the ship.

ANICETO M. CORDOVA.

Sworn before me,

DRAKE DE KAY,

[SEAL]

United States Consul.

MAN-OF-WAR COVE,

MAGDALENA BAY,

LOWER CALIFORNIA,

October 31st, 1871.

MR. DRAKE DEKAY,

U. S. Consul,

SIR:

The undersigned,  
American citizens, having taken passage in the  
Sloop *W. R. Alien*, of New York, at Man-of-

War Cove, on the 30th October, (1871,) for Cayuco, Magdalena Bay, was stopped and boarded by a body of armed Mexican men, claiming to be soldiers of Mexico, and acting under the orders of Señor Goroztiza, who claims to be the Collector of the Port of Magdalena Bay, and who made us his prisoners, and forced us to return to the aforesaid Port, wholly without regard to our earnest prayers and protestations as innocent and unoffending American citizens, bound upon business of the *greatest importance and entirely personal*. We, therefore, as peaceable citizens, do most earnestly pray your protection and advice, as the consul of our country—not having any means to protect either our lives or property—and being entirely at the mercy of the aforementioned Collector (Señor Gorostiza), who has already proven himself to be the most inveterate enemy of Americans.

With the greatest respect, we humbly subscribe ourselves your obd't servants in trouble.

J. P. MASSIE,  
J. N. VANNOY,  
T. J. REILY,  
WM. H. TROON,  
JOHN MOTT.

Personally appeared before me, Drake DeKay, U. S. Consul at Magdalena, L. C., the foregoing persons, to wit: J. P. Massie, J. N. Vannoy, T. J. Reily, Wm. H. Troon and John Mott, known personally to me as American citizens; and they did, each and every one of them, severally, acknowledge the foregoing signatures to be theirs; and

being duly sworn, declared the foregoing letter to be the truth; and did formally protest; and I, the said Consul, do also protest for myself, and for them, against the outrages set forth therein, claiming damages against all persons or authorities concerned therein.

Given under my hand and the seal of the Consulate of the United States, at Magdalena, L. C., this 1st day of November, 1871.

[Consular Seal  
of the U. S.]

DRAKE DEKAY,  
U. S. Consul.

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#### CUSTOM HOUSE PERMIT,

Under which the American sloop *W. R. Allen* was sailing when captured by Captain Contreras, of the Mexican Army, with a troop of soldiers at Cayuco, Magdalcna Bay, October 31st, 1871.

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[*Translation.*]

Magdalena, September 8th, 1871.

TO SEÑOR DON

FRANCISCO JIMENEZ MENDIZABAL,

COLLECTOR OF THE PORT, &C.

Have the kindness to permit the American sloop *W. R. Allen*, Collins, master, to ply between Man-of-War Cove, Cayuco and the esteros of the Bay to transport provisions, water and tools to the



workmen and bring orchilla to this place of deposit for the steamers.

FOR CAPTAIN J. B. G. ISHAM,  
General Superintendent, (absent)

[Signed.]

D. DE KAY.

[*Endorsement.*]

# MARITIME CUSTOM HOUSE

Of the Port of Magdalena.

Permission is granted to the sloop *Allen* to ply between the points indicated as often as may be desired.

Cayuco, Sept 8th, 1871.

JIMENEZ MENDIZABAL,

Collector of the Port.

Schooner *Ellen & Catherine*,

Man-of-War Cove,

November 1st, 1871.

To DRAKE DEKAY, Esq.,

UNITED STATES CONSUL,

Port of Magdalena, L. C.

SIR :

We, the undersigned citizens of the United States, supplemental to their petition to you of the 29th of October, most earnestly entreat that you will take such course as may be necessary to induce the Panama steamer to come into this harbor on her upward trip, that we may have an opportunity of

reaching San Francisco. Circumstances being daily developed impress upon us the belief that, notwithstanding the fair promises held out to us to remain, and the subtleties resorted to by those who have violently assumed the control of this port to detain us here apparently with our consent, we cannot but think that by remaining we would be jeopardizing our lives and property, that their promises are false; and, after the "*Comadre*" shall have left for Liverpool, the protection of which ship we are now enjoying, all means of defending ourselves will have departed, and we verily believe that we will fall victims to the insane hatred in which all Americans are held by the party now in power.

[Signed]:

J. P. MASSIE,	ANDREW HANSEN,
GEORGE SWAN,	T. J. RILEY.
JOSEPH GLUECKSBURG	J. T. N. VANNOY,
JOHN MOTT,	EGBERT B. SMITH,
JOHN NIMMO,	J. C. GLIDDEN,
CHRISTOPH. SPEEN,	A. R. PALMER,
ALBERT KATTENHORN	WM. H. TROON,
and family,	OLIVER E. Roberts and
MRS. JOHN NIMMO,	wife,
EDWARD GALLAGHER,	THOS. MASSON,
R. S. MARTIN,	JOHN ANDERSEN,
CHARLES MEYER,	CAPT. N. R. DERING,
J. T. SELLENDER,	

I certify and declare that the signatures above, with the foregoing petition, were actually made in my presence; and that each and every individual is personally known to me.

[Signed]: T. C. GLIDDEN,  
 Man-of-war Cove, L. C., Nov. 1st, 1871.  
 A true copy of original filed in this Consulate.  
 [SEAL.] DRAKE DEKAY,  
 U. S. Consul.

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UNITED STATES CONSULATE,  
 On board Schooner *Ellen & Catherine*,  
 alongside British ship *Comadre*,  
 Man of-War Cove, Magdalena Bay.  
 November 1st, 1871.

TO THE COMMANDING OFFICER OF THE  
 PACIFIC MAIL S. S. COMPANY'S STEAMER,  
 DUE FROM PANAMA ON 7th OR 8th INST.,  
 OFF MAGDALENA HEADS,  
 CAPE SAN LUCUS.

SIR :

I have the honor to inform you that there are on board this vessel, under protection of U. S. Consulate, a considerable number of American citizens, who are in peril of their lives from the violence of an unauthorized military force, and, who are desirous of flying from the country, as will appear by the petition from them to me as U. S. Consul, of which I enclose a certified copy.

I therefore request you, officially, to enter this port, to take them, together with myself and the Consular archives, the same being in immediate danger of outrage, and I guarantee to you the payment of the passage of all the aforesaid persons from here to San Francisco.

I would send these people off to the heads to meet you, did I deem it safe, but having attempted to send off a few, night before last, the vessel was captured, and brought back by Mexican soldiers.

Your steamer cannot be in any way molested or detained.

The people are afloat (in this schooner) and all ready to go on board.

I have the honor, sir, to be your very obedient servant.

DRAKE DE KAY,  
United States Consul, Magdalena.  
P. W. VAN WINKLE,  
Vice-Consul, Man-of-War Cove.

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UNITED STATES CONSULATE,  
On board Am. Schr. "Ellen & Catharine,"  
Alongside British Ship "Comadre,"  
Man-of-war Cove, Magdalena Bay, L. C.  
November 7th, 1871.

CAPT. CAVARLY, COM'DG. S. S. *Constitution*,  
OR THE CAPT. COM'DG. P. M. S. S. Co's  
STEAMSHIP, DUE FROM SAN FRANCISCO,  
OFF THE HEADS OF MAGDALENA,  
THIS DAY.

CAPTAIN :

I hand you annexed copy of a communication sent to Cape San Lucas, in hopes of getting it on board of the up steamer.

Owing to the unsettled state of the country south of us, particularly at Todos Santos, where troops

are in motion, it is extremely probable that said letter will fail to reach the steamer.

In this case the chances are against her coming in, and I therefore request you, officially, as the representative of the American citizens here, to enter this port and take out this Schooner, that the American men and families and consular archives may be placed on board of the up steamer, at sea, in case of failure of connection, by letter, at Cape San Lucas, or that failing to get on board of her, we may proceed in this Schooner to San Francisco. The men, women, children, and consular property are all on board, and you will not be delayed over fifteen minutes.

We are lying in ten fathoms of water, and you can run alongside and give us a line.

I guarantee to your Company such compensation as it may deem proper for the service.

Your steamer will not be delayed or molested in any way by the parties on shore.

Trusting that, with your well-known kindness, pluck and patriotism, you will not hesitate to extend your aid to American citizens in momentary danger and expectation of being assaulted and possibly exterminated by lawless and irresponsible Mexicans and foreigners, backed by ignorant and brutal soldiers.

I am your friend and servant,

[SEAL.]

DRAKE DEKAY,

U. S. Consul at Magdalena.

P. W. VAN WINKLE,

U. S. Vice-Consul Man-of-War Cove.

UNITED STATES CONSULATE,  
 On board schooner *Ellen and Catharine*,  
 alongside British ship *Comadre*  
 Man-of-War Cove, Magdalena Bay,  
 November 2d, 1371.

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MESSRS. COBOS, GOROSTIZA AND ASSOCIATES,  
 CLAIMING CONTROL BY FORCE,  
 OF MAGDALENA BAY,

SIRS: CAMP OF COBOS & MONROY.

I have at hand a communication from your Mr. F. Espinosa Gorostiza stating that certain arms, ammunition, military accoutrements, etc., as per inventory enclosed therein, are in possession of the U. S. Consulate, and requesting the transfer of same to you as holding order from the Political Chief of the Territory for them.

While denying any right on your part to question, or obligation on my part to reply, you having exhibited no authority of any kind showing you to be a representative of either the Local or Central Governments of the Republic, in order that there should be no appearance of mystery or concealment as regards these arms, I proceed to state that on or about the 12th October, Señor Jimenez Mendizabal, Administrador de Aduana, etc., came to me and stated that he had learned that your Mr. Cobos had contracted at and despatched from La Paz a large number of men, say about one hundred, to come to Magdalena, nominally to pick orchilla, which was most suspicious, he having already some

two hundred men imported as colonists from Ecuador, and had more orchilla gathered than he could press, and that Mr. Cobos was treating for a body of soldiers to come to Magdalena, which would give him a force of about three hundred and fifty to three hundred and seventy-five men. That said Mr. Cobos had illegally imported, without invoices, and suspiciously, arms of various kinds; say breach-loading rifles, rifles with bayonets, pistols, large machetes, amunition, drums, accoutrements, etc., etc., in all enough to formidably arm about two hundred men. That he (Mendizabal) believed that the intention of your party was to use these weapons to arm your force and capture him with his accounts; destroy the Custom House accounts, they being evidence of Cobos & Co.'s debts to the Treasury Department and proof of his (Jimenez Mendizabal's) honesty, send him to La Paz, assassinating him on the road under false accusation of attempt to escape, seize control of the port, ship all orchilla here freely, smuggle imports ad libitum, and finally, after being well organized to pronounce against the Supreme Government, and with a portion of the proceeds of the first few months exports of orchilla (say about \$200,000), establish a military and naval power here sufficient to control the Peninsula and defy the Central Government for a few years, during which time you could divide up several million dollars among the members of your party.

He, therefore, as a precautionary measure and in the innocent confidence that you would respect the

sacredness of a foreign Consulate, requested me to receive a certain portion of said arms, which were too bulky to handle easily, and hold them subject to the disposition of the Government, which I agreed to and received a number of cases into the Consulate at Yray, the contents of which I did not know, but was informed and believe to be as follows, viz :

2. Two cases of (50) fifty rifles with bayonets.
1. One case of (48) forty-eight Machetes with bayonets.
3. Three boxes of (3,000) three thousand rounds ammunition.

The rest of the arms, etc., are, and have been in the possession of the Custom House of this port, and not of the Consulate, or of any of the employees or ex-employees of The Lower California Company, which Company was obliged by you, by force, to precipitately abandon its property and interests on the 30th of October, as per enclosed General Order, No. 12.

As U. S. Consul I accepted the arms pending receipt by the Collector of instructions from the Supreme Government, for which both he and the Political Chief had already written, and I did so the more willingly from the fact that I was aware myself of the intentions of your party, by observation, advices from La Paz and previous unintentional revelations of your Mr. Cobos, and comprehended the plot which was incubated in May last.

In that month, your Mr. Gorostiza, then a special Commissioner, came from La Paz to Magdalena, and although he was openly hostile to Ameri-



cans, and with official urbanity publicly declared that it would afford him especial pleasure to drive all the colonists into the bay (*affidavit, Echarlos todos en la Bahia*) and although he had visited only six points, within a radius of forty miles, in the formal inspection of some forty-seven thousand square miles of the territory covered by the Colonization Company, he was obliged to confess to Col. J. P. Leese and others here, and also to many in La Paz (see affidavits 18, 19, 22 and 24), that The Lower California Company had more than fulfilled the conditions of its concession.

This, however, was speedily changed and the foundation was laid by the utterly false and shameless report furnished the Supreme Government by Mr. Gorostiza, of the general scheme which you with armed force are now attempting to perfect.

Knowing your plans and that in your unholy thirst for gold, you would resort to any violence (which the iniquities of the past few days have verified), I took charge of these arms and shall not deliver them except upon order of Señor Jimenez Mendizabal, Collector, or his successor in office showing legal authority, or an order from the Supreme Government, or from the Political Chief of the Territory, dated subsequent to his knowledge of the gross violations of national honor, persons, property and law by your party at this port.

The cases of arms, as described above are in the Consular office at the Llano de Yray.

Your Obedient servant,

DRAKE DE KAY,

U. S. Consul at Magdalena.

[SEAL.]

THE LOWER CALIFORNIA COMPANY,  
MAGDALENA, LOWER CALIFORNIA,

6 A.M., Monday, Oct. 30th, 1871.

[Grand Orders, No. 12.]

1. The occupation of this port by armed force, the interruption of all trade and the ignoring and denial of any rights of the Lower California Company renders it absolutely necessary for the company to abandon its interests and to precipitately close up its business at this port and adjacent points until such time as the Mexican Government shall make redress and reinstate the Company.

2. All employees of the Company are notified that their employments are discontinued and salaries or wages cease from the date of this order.

3. All the goods or property here of the Company (other than real estate and the Orchilla gathered by Cobos & Monroy), and have been sold and turned over to Mr. John Ricketson, a British subject, who desires entering into business on his own account at this port.

4. The Company thanks all its employees for their faithful service during the past year.

For the Board of Directors and Stockholders.

[Signed.]

DRAKE DE KAY,  
Secretary and Apoderado-General of  
The Lower California Company.

[Signed.]

JEREMIAH COLLINS,  
General Supt. Lower Cal. Co.

A true copy of the original.

P. W. VAN WINKLE,

[SEAL]

U. S. Vice-Consul.

Magdalena Bay, L. C.,

October 29th, 1871.

COL. DRAKE DE KAY,

U. S. Consul at Magdalena, on board the schooner *Ellen and Catherine*.

As an American citizen I beg to appeal to you for protection.

Last night I was on board of the American schooner *Cina Greenwood*, as custodian, and of which vessel I have had charge of since 6th of October, inst., since I left the service of the L. C. Co. At about 3 o'clock I came on deck, everybody being below and asleep, when I observed a boat come alongside, being hidden till then by the darkness, and some twenty or more men sprang on board firing pistols at me, and armed with muskets, machetes, and Japanese swords. They were led by Manuel J. Cobos, Francisco E. Gorotiza, and Judge Susano Rosas, there was also present, one M. Sanchez, of La Paz. I was instantly seized overpowered and pinioned. Manuel J. Cobos striking me a violent blow with his pistol or other heavy weapon, disabling me. After my arms were bound F. Gorotiza came to me and jammed his revolver in my face, cutting the flesh from my cheek, saying, "I'll show you who I am, I am the Mexican Government," he then ordered the guard, two of Cobos' Peons, to shoot me if I attempted to escape. The vessel was hailed from shore, but we were ordered with threats not to reply. All on board were informed that they were prisoners and were not allowed to speak with each other. A

council of war was held by the leaders, and the question of cutting out the American schooner *Ellen and Catherine* was discussed, but as day was rapidly approaching, and as the Americans on shore seemed to be arming, it appeared to be too hazardous to attempt with the force at hand, and it was concluded to send the *Cina* to Cayuco for the troops they had there which under the command of Susano Rosas, and Sanchez was done—who stated he was acting under orders from Gen. Davalos, the Governor of the Territory.

I have now been brought back here, still on the *Cina*, and am informed that I am to be tried at once by “drum head court,” and from what I can gather from the Lieut. Commandant—as mild a mannered man as ever scuttled ship or cut a throat—it is more than probable that I will be shot in less than twenty four hours, unless you can rescue me. They have got here some sixty regular soldiers armed with rifles, and about one hundred Peons armed with machetes and Japanese swords, the leaders having revolvers. Captain Gliddin told me that you had four Henry rifles, and a shot gun on shore, and three revolvers, rather heavy odds, but if you can surprise them to-night you might get arms enough from them to clean them out, but if you attack, tell the boys to fight to the last man, for these pirates mean business, and if they get the upper hand, God help you, and the women and children, they will shoot all hands,

My principle hope is, that they fear the arrival of a man-of-war, promised from San Francisco,

and I have taken care to inform them that she will be sure to be here to-morrow, and that her commander is a man not afraid of responsibility or the navy department like many of the navy fossils who are well known in the Mexican ports as principally anxious to avoid protecting Americans or redressing their frequent wrongs.

They are keeping two lookouts on Observatory hill to watch for the man-of-war. I leave the whole matter to you; you will know what is best to do. Of course you know that they will not respect any demands you may make, or protests as Consul of the United States. And if they do you will be the first since our arrival on the Pacific coast. Like all Mexicans they know by the past history of American enterprise for the last 20 years in this country that they have nothing to fear from the United States Government.

The mines and mills of Americans destroyed, Americans robbed and killed, the timbers of seized American vessels rotting in every Mexican port; American officers struck, insulted and stoned (like Porter at Guaymas); all these outrages unredressed and unavenged, plainly teach Mexican officials that the American people have the most pusillanimous government amongst nations. To claim American citizenship in Mexico is to excite derision and invite outrage. Better have a passport from Kam-schatka.

If worst comes to the worst I hope you will do what you can for my family, but I still believe that the sun will still shine for me in this beautiful

country, and that my time with God's blessing has not yet come. You will find my address by letters in my trunk, or Messrs Flood & O'Brien of S. F. will furnish all necessary information.

This letter is perhaps not a very proper one to address officially to a Government officer, but you will please consider the circumstances, and excuse informality. I wish it understood that I by this enter my solemn protest to you and the U. S., against the acts committed, against my present imprisonment and bonds; against my trial and any future acts that may be done upon my person.

Respectfully, your obedient servant,

EDWARD GALLAGHER.

Native citizen of the U. S.

A true copy of original received and filed in this Consulate, on board schooner *Ellen and Catherine*, Man-of-War Cove, L. C., October 29th, 1871.

P. W. VAN WINKLE.

{ CONSULAR SEAL }  
{ OF THE U. S. }

Vice Consul.

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UNITED STATES CONSULATE,  
On board American Sch'r *Ellen and Catharine*,  
alongside British Ship *Comadre*,  
Magdalena Cove,  
Magdalena, Lower California,  
November 8th, 1871.

Whereas, on the 9th day of October, 1871,  
Francisco Jimenez Mendizabal Collector of Cus-

toms under the Government of the Republic of Mexico at Magdalena, Lower California, placed himself with the Archives—Seal of his office, property and the money belonging to the Treasury of of the Republic, under the protection of this Consulate, being impelled thereto by threats of personal violence and the sequestration of said Archives, seal, property and money, from one Francisco Espenosa Gorostiza, an official from La Paz, claiming control and absolute jurisdiction of the Port of Magdalena and the Custom House thereat.

And, whereas, on the 28th day of October, 1871, at the unusual and indecent hour of the 3½ o'clock in the morning, the said F. E. Gorostiza, accompanied by Susano Rosas, Administrator of sealed paper of La Paz, V. Sanchez, and one Manuel J. Cobos, with a boat filled with armed Peons, from Equador, attacked, fired upon, boarded and captured the American Schooner *Cina Greenwood*, while she was lying peaceably at anchor in said Bay, making prisoners on the Captain, crew and passengers, all Americans, binding and greatly maltreating one who had presumed to attempt to defend the vessel from what he properly considered to be a raid made by Pirates or Robbers.

And, whereas, that on the arrival of the said Mendizabal at Magdalena he delivered a letter from the Political Chief at La Paz, to the Lower California Company wherein said Mendizabal was introduced as the Collector of the Port of Magdalena, said F. E. Gorostiza having resigned.

And, whereas, that anticipating further trouble

and violence at the hands of these said desperadoes and believing that the sacredness of the American Flag would not be respected, the said F. J. Mendizabal was compelled to seek the further protection of the British ship *Comadre*.

And, whereas, that said F. E. Gorostiza after capturing the said schooner, made imperative and insolent demand for the person of said Collector Mendizabal, and for the Seal, Archives, and all other property belonging to said Custom House, without exhibiting any credentials or other authority from any source for such proceeding, and upon being refused compliance, he together with said Manuel J. Cobos, threatened to have the person of said Mendizabal "dead or alive," and to take said property by force, and did for that purpose go on board of said *Comadre*, but were defeated in their object through the generous gallantry of her Commander Captain Joseph Penrice, who declared that said Mendizabal and the American Consuls and Citizens were under the protection of the British Flag, and that they, the said Gorostiza and Cobos with their soldiers "would not be permitted to touch a hair of their heads without first killing the entire crew of his ship."

And, whereas, that immediately thereafter and in violation of their pledged word of honor that nothing further should be done or attempted until the following day when said F. E. Gorostiza would exhibit his papers of authorization, they the said Gorostiza and Cobos dispatched the said captured schooner to Cayuco Bay for the purpose of bring-



ing up some more Mexican Soldiers who had been brought from La Paz, carrying away and holding as prisoners the Captain, crew and passengers.

And, whereas, that by reason of said outrages, the seizure of boats and other property of the Mexican Government which has been placed under the protection of the Flag and Consulate of the United States, the further insults perpetrated upon the Consulate and Flag, the notorious intention of capturing at all hazards, not only the said Collector Mendizabal, but the Consuls representing the United States Government and the American residents, in order to destroy all available evidence against their nefarious proceedings, they the said representatives of the Government of the United States, together with all the citizens of the United States who could be hastily informed were compelled to flee and seek protection of said ship *Comadre*, using an American schooner flying the American flag, for transportation from the shore, and while thus being transported, said schooner was chased by two boats filled with uniformed Mexican soldiers and others, armed with guns and revolvers and overtaken just as said schooner reached the side of said ship, to the quarter deck of which Col. Drake De Kay the United States Consul was pursued by said Gorostiza, Cobos, the commandants of troops and others, armed with revolvers, swords, etc., the said schooner being boarded by armed men from the boats, and only by the firmness of Captain Penrice, commander of the *Comadre*, who threatened to order his crew to repel boarders, were

the Consuls, the American citizens, and the aforesaid Mendizabald with his funds and Archives saved from immediate capture and certain death.

And, whereas, that the American sloop *W. R. Allen*, a vessel that had been navigating the waters of Magdalena Bay for some time under proper sailing permit issued out of the Custom House by the said Collector Mendizabal, was dispatched on the 30th October to Cayuco Bay for the purpose of getting provisions and water, carrying at same time some passengers amongst whom was one William H. Troon, a servant of the Consulate who was sent as bearer of dispatches from the U. S. Consul at this place to the U. S. Consul at La Paz. That said sloop was chased by the said schooner *Cina Greenwood*, filled with soldiers, and captured at Cayuco Bay. That the commandant ordered and insisted upon the immediate return to Man-of-War Cove, of said sloop. That he utterly and positively forbade and prevented any communication with the shore. That upon said Troon's earnestly soliciting to be allowed the privilege of going ashore, he was told by the commandant "that if he attempted to deliver any letters, or to communicate verbally with any person on shore, he would be tied hand and foot and carried back a prisoner." That said sloop was compelled to return forthwith under the guard of said schooner, notwithstanding the protests of those on board and the exhibition by the Captain, of the aforesaid permit,

And, whereas, that by the public threats of said F. E. Gorostiza and M. J. Cobos, that "they

would have Mendizabal dead or alive, no matter at what cost;" their frequent assertions that none of the refugees should leave the Port, and the continually repeated threats that they would board the *Comadre* with their whole force and take them out of her,

And, whereas, that the American citizens petitioned the U. S. Consul for protection, and that he would use his official influence to induce the Pacific Mail Company's Steamer, due the 8th inst., to come in to the Harbor and carry them away, believing from the outrages that were daily transpiring, that they were in momentary peril of their lives. That a messenger was sent to Cape St Lucas to intercept said steamer on her way up from Panama, carrying a copy of said petition to the commander, together with an earnest letter from the Consuls. That by some, as yet unexplained reason, said steamer passed on up without coming in the Harbor, leaving the inference that said messenger had been stopped and that said dispatches had been destroyed, or purposely delayed. That, in view of all the circumstances the Americans and families are urgent to get away, the long looked and hoped for U. S. Government vessel not making her appearance. That it has become compulsory in order to escape further impending violence to embark with others in a small schooner. of but 35 tons burden, insufficiently provisioned and watered, and without ballast, being the only vessel that could be obtained, and which was chartered expressly for the purpose by the U. S. Consul.

Now, therefore, we, Drake De Kay, Consul of the United States of America, at Magdalena, L. C., and P. W. Van Winkle, Vice Consul at Man-of-War Cove, do hereby enter solemn protest against the Government of the Republic of Mexico, for the outrages perpetrated as hereinbefore set forth, for the many and persistant insults upon the Flag of the United States, and for the forcible closing of the Consulate at this Port, by the violent acts of said F. E. Gorostiza, S. Rosas, V. Sanchez, and others, claiming to be agents and representatives of the said Republic of Mexico.

In testimony whereof we have hereunto set our hand, and have affixed the seal of the Consulate this 8th day of November, 1871.

[Consular Seal  
of the U. S.]

DRAKE DEKAY,

U. S. Consul at Magdalena.

P. W. VAN WINKLE,

U. S. Vice-Consul Man-of-War Cove.

Magdalena.

On board American schooner  
*Ellen & Catharine*,  
 alongside British ship *Comadre*,  
 Man-of-War Cove,  
 Magdalena Bay, L. C.,  
 Nov. 8th, 1871.

CAPTAIN JOSEPH PENRICE,

Commanding British ship *Comadre*.

CAPTAIN :

At last enabled to leave this port under convoy of the Pacific Mail Steamship *Constitution*, in the hurry of sudden departure, we desire to give you our heartfelt thanks for the kind protection and generous hospitality that you, together with your officers and crew have extended to us.

In sending into this port a vessel that bears a flag ever sensitive to the calls of humanity, and commanded as the *Comadre* is, we gratefully recognise the interposition of a beneficent Providence in furnishing a medium by which we are enabled to escape the violence and outrage to ourselves, our wives, children and property, that must, of necessity, have befallen us, by a continued stay at a place where law is set aside, decency outraged, and terror reigns by force of armed soldiers, headed by irresponsible men.

While on board and under the protection of your noble ship, we felt every security from harm.

Now we are driven forth to meet such fate as heaven may have in reserve for us, trusting, however, that the same good fortune that should ever

be extended to you will be granted to us, and that you, as well as ourselves, will reach homes in safety.

We beg dear Captain, to subscribe ourselves, your obliged servants and most sincere well wishers.

ANDREW OLSEN,	J. C. GLIDDEN,
ALBERT R. PALMER,	J. N. VANNOY,
CHARLES MEYER,	J. P. MASSIE,
F. JIMINEZ MENDIZABAL,	T. J. REILY,
FRANCISCO JIMINEZ, JR.,	GEORGE SWAN,
ANDREW HANSEN,	EGBERT B. SMITH,
CHARLES WALLACE,	OLIVER E. ROBERTS,
THOMAS MASSON,	JOHN NIMMO,
ROBERT S. MARTIN,	D DEKAY,
WM. H. MAYNE,	CHRISTOPHER SPREEN,
WM. H. TROOM,	JOSEPH GLICKSBERG,
JOHN MOTT,	N. RICHARD DERING,
EDWARD GALLAGHER,	J. F. SCLENDER,
P. W. VAN WINKLE,	A. KATTENHORN,
JOHN ANDERSON,	W. W. BENNETT.

(American citizens.)

#### EVIDENCE

That American importers had paid all duties, &c., to Mexican Government up to date of expulsion.

#### RECEIPTS.

[*Translation.*]

CUSTOM HOUSE OF

The Port of Magdalena,

September 30th, 1871.

The Lower California Company has paid to this

Custom House for sundry duties, anchorage, pilotage, and lighthouse dues, *nine hundred and ninety nine  $\frac{72}{100}$  dollars* in gold coin, in full to date.

FRANCISCO JIMENEZ MENDIZABAL,

\$999.72, coin

Collector of the Port.

{ SEAL OF  
THE  
ADUANA }

# LAST RECEIPT.

[*Translation.*]

CUSTOM HOUSE,

Port of Magdalena.

October 22, 1871.

The Lower California Company has paid to this Custom House, for anchorage, pilotage, lighthouse and tonnage dues, for sundry duties upon goods imported, and for sealed papers and postal service, the sum of *one thousand, seven hundred and sixty four  $\frac{42}{100}$  dollars*, in gold coin, in full to date.

FRANCISCO JIMENEZ MENDIZABAL,

\$1764.42.

Collector of Customs.

{ SEAL OF  
CUSTOM HOUSE }

[*Translation.*]

CUSTOM-HOUSE OF THE PORT OF MAGDALENA, LOWEB  
CALIFORNIA, MEXICO.

# CIRCULAR.

Whereas, the port of Magdalena was occupied on

the 28th of October by a body of armed troops, headed by Cobos and Gorostiza, without authority or credentials from the Supreme Government of the Mexican Republic; and whereas the hostile character is public and notorious, with which, by virtue of the said armed forces, they have taken possession of said port:

Now, therefore, the Custom House under my charge complies with the instructions of the Supreme Government in its Circular issued February 22d, 1832, which, in Article 1, directs:

“The Supreme Government declares CLOSED to  
“foreign and coastwise commerce any port which is  
“occupied by armed forces, fixing such date as may  
“be proper, and taking such steps as may be neces-  
“sary to notify captains of all vessels which may  
“bound for such port.”

In consequence of the citizen Gorostiza having outraged this Federal office, attempting to exercise authority supported only by armed force, and inasmuch as the subscriber has the full character of Collector of the Port in accordance with the laws and with patents of the Supreme Government of Mexico:

Therefore, so long as said forces occupy Man-of-war Island, in Magdalena Bay, the point at which I had established the Federal Custom House, the port is hereby declared, in pursuance of the before cited Article, closed to all foreign commerce until the receipt of instructions from the capital of Mexico and the Federal Government which I represent.



And in order to bring this to the knowledge of all captains of steamers and other vessels and the mercantile community of San Francisco, I make this notice as the legitimate representative of the Treasury Department of the Mexican Republic, with the understanding that whatever vessel or steamer enters the said port, failing in the observance of this notification, will risk the responsibility contracted by such act.

Independence and Liberty.

San Francisco, California, (U. S. A.) Dec. 2d, 1871.

[Seal of the Custom  
House of Magdalena.]

FRANCISCO JIMENEZ

MENDIZABAL,

Collector of Customs of the port of Magdalena,

REPORT OF COLLECTOR OF MAGDALENA TO THE  
MEXICAN MINISTER AT WASHINGTON.

[*Translation.*]

San Francisco, Cal., Dec. 6th, 1871.

On the morning of the 28th of October last past, a body of troops, sent from La Paz, and headed by Manuel Cobos, a citizen of Equador, and the Cashier of the La Paz Custom House, Francisco Espinoza Gorostiza came to the port of the Bay of Magdalena and took possession thereof, violating my authority as Collector and Cashier, which I am, being appointed by the Supreme Government of the Capital of Mexico.

As maritime custom houses are solely subject to the Ministry of Finance, they receive their orders from the Treasury Department of the nation.

Consequently no office has control over them.

Upon the citizen Gorostiza having committed this act of violence, it became necessary for me to shelter myself, with the office which is in my charge, under the flags of the United States of North America and of Great Britain, inasmuch as no other Mexican authority existed in the port.

This measure, however, was not sufficient to restrain the outrages which were afterwards committed by the said officer and his accomplices, Cobos and Susano Rosas, Administrator of Sealed Paper of La Paz, upon the Consul of the United States of America, and his fellow-citizens resident in the port, even to the point of having taken by force, making use of arms and firing shots, an American schooner, the *Cina Greenwood*; and, further, still, the said individuals and their armed soldiers, committed the wrong of boarding the British ship *Comadre*, to pursue the United States Consul, who sought asylum in the said ship.

The American Consul, and his fellow-citizens, as far as lay in their power, (without desiring on their part to compromise the two Republics) conducted themselves in the handsomest manner possible, and succeeded in aiding me to place in safety my person and the interests of the Mexican nation.

But as they have been outraged personally, and their flags as well, they have made officially their demands for redress for these attacks to the United

States Minister, resident in Mexico, who will bring same to the knowledge of the Cabinet of Washington.

And as you are exercising the functions of Mexican Minister, near that Government, I have deemed it proper and necessary to inform you in reference to these occurrences, that you may be enabled to place on a favorable footing this international question, if the necessity arrives, notwithstanding which I proceed direct to the Capital of the Republic to render account of my acts to the Citizen Minister of Finance and Public Credit.

This occasion offers me for the first time the opportunity of placing myself at your orders.

Independence and Liberty.

[Signed.] FRANCISCO JIMENEZ MENDIZABAL.

Collector of the Port of Magdalena.

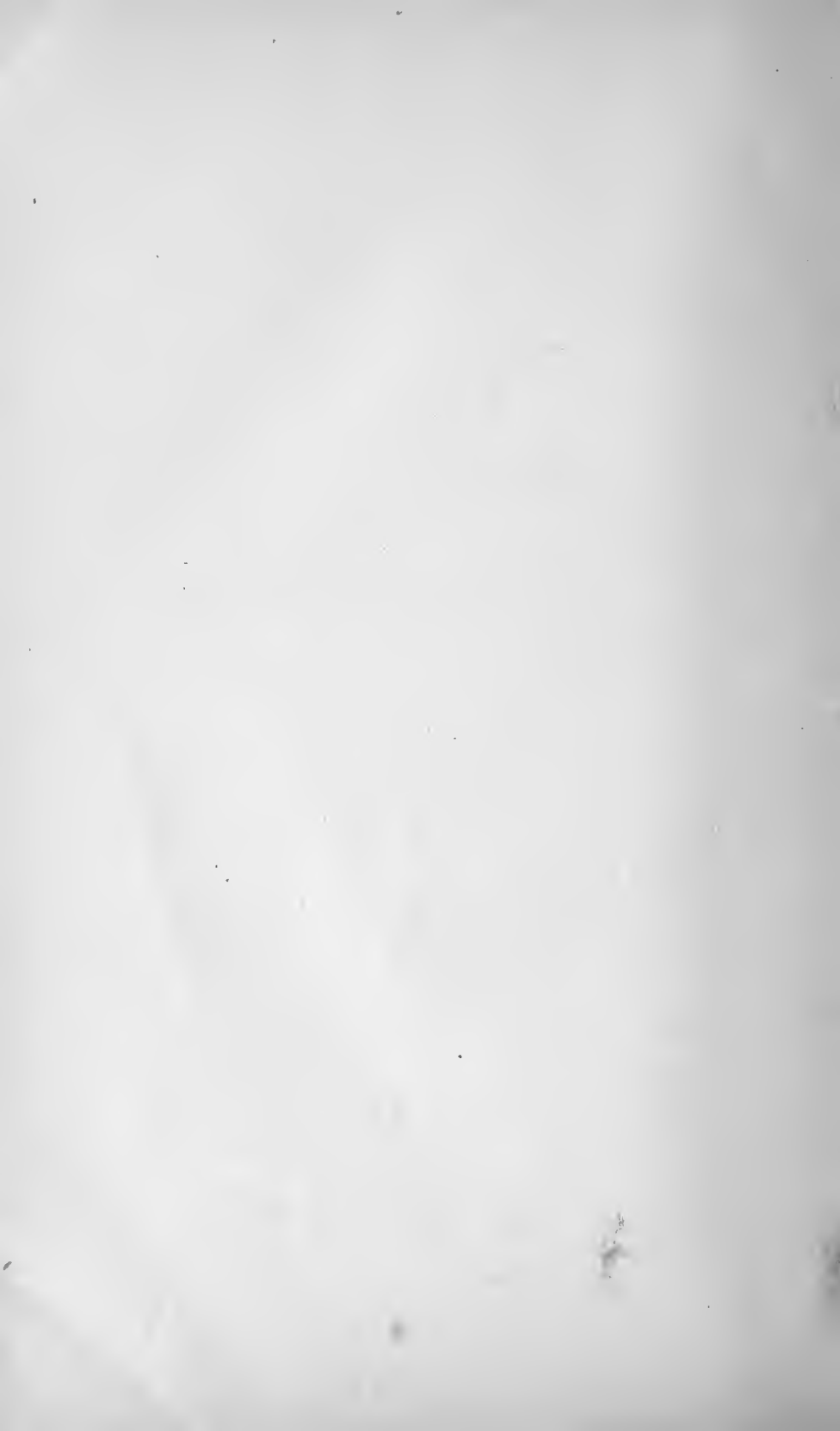
To the Citizen Minister of the Mexican Republic, resident in Washington, United States of America.



PERSONAL PROTESTS

OF

AMERICAN CITIZENS.



UNITED STATES CONSULATE,  
Magdalena, Lower Cal.

On this 8th day of November, 1871, before me, Drake De Kay, Consul of the United States of America, for the Port of Magdalena, personally appeared Jasper N. Vannoy, an American citizen, and declares: That, whereas, he, Jasper N. Vannoy, having come to Magdalena as a colonist under a contract with The Lower California Company and one Moises Puch for the purpose of settling in the country, and after fulfilling his said contract, he prospected the country and found a rich deposit of silver ore which he located.

And, whereas, afterwards, he, Vannoy, went to San Francisco to obtain the capital necessary for developing the same, and upon his representation an association was formed in that city, and a large amount of money was expended for outfit, etc., for the purpose of developing said deposit, and for prospecting and locating other mines, in which said association, he, said Vannoy, became largely interested.

And whereas, he with two companions, J. P. Massie and T. J. Riley, came here for the purpose

of opening and working said mine, and for the prospecting of other localities.

And whereas, on the 28th day of October, 1871, one Francisco Espinoza Gorostiza, a Mexican official from La Paz, accompanied by one Manuel J. Cobos and a boat filled with armed Peons, attacked and captured the *Cina Greenwood*, an American schooner engaged in freighting in and about Magdalena Bay, then lying at anchor, and placed the Captain, crew and passengers in confinement as prisoners, without any provocation, and without exhibiting any legal process or authority for such proceeding, and claimed by force of arms absolute control of said Bay.

And whereas, by the introduction on the day following of a large number of Mexican soldiers, and by threats and other demonstrations of violence, the only Mexican official at said Port, Jimenez Mendizabal, Collector of Customs under commission from the Supreme Government, together with the United States Consuls, under whose flag he sought protection, and with other unoffending persons were compelled to seek the further protection of the British ship *Comadre*, thereby imperilling the lives and greatly alarming innocent men, women and children.

And whereas, that on the 30th of October, 1871, he with his said companions took passage on the American sloop W. R. Allen, at Man-of-War Cove for the purpose of going to said mine. That after getting under way said sloop was chased by the said *Cina Greenwood*, officered and manned by



foreigners, natives of Equador, carrying a large number of Mexican soldiers, under one Contrares, Captain and Commandante, and captured at Caynco Bay. That notwithstanding the Captain of said sloop exhibited a proper sailing permit from said Collector Mendizabal, said Commandante imperitively ordered and insisted upon her immediate return, forbidding at same time all communication with the shore and threatening W. H. Troon, also a passenger on board, and bearer of despatches from the United States Consul at Magdalena to the United States Consul at La Paz; that if he attempted to deliver any letters or communicate verbally with any one on shore he would bind him hand and foot and carry him back a prisoner.

That he with his companions and every one on board were forcibly compelled to return in said sloop, pursued by and under guard of said schooner and soldiers.

And whereas, by reason of such outrages, after suffering great mental torture and extreme anxiety for his personal safety he is now compelled to break up his occupation, abandon said mine and other property and seize the only opportunity of escaping from the country, and the horrors that a continued stay would entail by taking passage for San Francisco along with thirty-five others—Americans—on board of a schooner only thirty-five tons burden, chartered by the U. S. Consul for the purpose, short of ballast, and without such provisions and water as could be hastily put on board.

And whereas, that by thus taking passage and

abandoning his property and interests as aforesaid, he verily believes that he is escaping from the certainty of unprovoked outrages and personal dangers.

Now, therefore, know all men by these presents, that on the day of date hereof, comes the said Jasper N. Vannoy, and after stating the facts aforesaid, hath protested. I, the said Consul of the United States, at his special instance and request, do publicly and solemnly protest against the act of the said Francisco Espinoza Gorostiza, M. J. Cobos, and against all and every person whom it may, doth or shall concern, and especially against the Government of the Republic of Mexico, whose agent and representative the said Francisco Espinoza Gorostiza claims to be, for all losses, damages and injury already incurred and sustained, or which may hereafter be incurred or sustained by the said J. W. Vannoy, for, or by reason of, or on account of the said acts done and performed as aforesaid.

In testimony whereof, as well the said Jasper N. Vannoy, as I, the said Consul, have hereunto set our hands, and I, the said Consul, have affixed the seal of the Consulate at Magdalena, this, the day and year first herein written.

JASPER N. VANNOY,

$\left\{ \begin{array}{c} \text{CONSULAR} \\ \text{SEAL} \\ \text{OF THE U. S.} \end{array} \right\}$	<p>DRAKE DE KAY, U. S. Consul at Magdalena.</p>
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UNITED STATES CONSULATE,  
Magdalena, Lower California.

On this 8th day of November, 1871, before me, Drake De Kay, Consul of the United States of America, for the Port of Magdalena, personally appeared J. P. Massie, an American citizen, and declared: That whereas, J. N. Vannoy having come to Magdalena as a colonist under a contract with The Lower California Company and one Moises Puck, for the purpose of settling in the country, and after fulfilling his said contract, he prospected the country and found a rich deposit of silver ore which he located.

And whereas, afterwards said Vannoy went to San Francisco, California, to obtain the capital necessary for developing the same, and upon his representation, an association was formed in that city, and a large amount of money was expended for outfit, etc., for the purpose of developing said deposit, and for prospecting and locating other mines, in which said association, he, said Massie, became largely interested.

And Whereas, he with two companions, T. J. Reily and said J. N. Vannoy, came here for the purpose of opening and working said mine, and further prospecting.

And whereas, on the 28th day of October, 1871, one Francisco Espinoza Gorostiza, a Mexican official from La Paz, accompanied by one Manuel J. Cobos, and a boat filled with Peons, all foreigners, attacked and captured the *Cina Greenwood*, an American schooner engaged freighting in and about

Magdalena Bay, then lying at anchor, and placed the Captain, crew and passengers in confinement as prisoners, without any provocation, and without exhibiting any legal process or authority for such proceeding, and claimed by force of arms absolute control of said Bay.

And whereas, by the introduction on the day following of a large number of Mexican soldiers, and by threats and other demonstrations of violence, the only Mexican official at said Port, Francisco Jimenez Mendizabal, Collector of Custom sunder commission from the Supreme government, together with the United States Consul, under whose flag he had sought protection, and with other unoffending persons were compelled to seek the protection of the British ship *Comadre*, thereby imperilling the lives and greatly alarming innocent men, women and children.

And whereas, that on the 30th of October, 1871, he with his said companions took passage on the American sloop *W. R. Allen* at Man-of-War Cove for the purpose of going to said mine. That after getting under way, said sloop was chased by the said schooner, *Cina Greenwood*, officered and manned by foreigners, natives of Equador, carrying a large number of Mexican soldiers, under one Contreres, Captain and Commandante, and captured at Cayuco Bay. That notwithstanding the Captain of said sloop exhibited a proper sailing permit from said Collector, Mendizabal, said Commandante imperatively ordered and insisted upon her immediate return, forbidding at the same time all communica-

tion with the shore, and threatening Wm. H. Troon, also a passenger on board and bearer of despatches from the United States Consul at Magdalena to United States Consul at La Paz, that if he attempted to deliver any letter or communicate with any one on shore, he would bind him hand and foot and carry him back a prisoner. That he with his companions, and every one on board, were forcibly compelled to return in said sloop, pursued by and under guard of said schooner and soldiers.

And whereas, by reason of such outrages, after suffering great mental torture and extreme anxiety for his personal safety, he is now compelled to break up his occupation, abandon said mine and other property and seize the only opportunity of escaping from the country, and the horrors that a continued stay would entail, by taking passage for San Francisco along with thirty-five others, Americans, on board a schooner of only thirty-five tons burden, chartered by the United States Consul for that purpose, short of ballast and with only such provisions and water as could be hastily put on board.

And whereas, that by thus taking passage and abandoning his property and interest as aforesaid, he verily believes he is escaping from unprovoked outrages and personal danger.

Now therefore, know all persons by these presents, that on the day of the date hereof, comes the said J. P. Massie, and after stating the facts aforesaid, hath protested, as I, the said Consul of the United States, at his special instance and request,

do publicly and solemnly protest against the said acts of Francisco Espinoza Gorostiza, M. J. Cobos, and especially against the Government of the Republic of Mexico, whose agent and representative the said Francisco Espinoza Gorostiza claims to be, for all losses, damages and injury already incurred and sustained, or which may hereafter be incurred or sustained by the said J. P. Massie, for or by reason, or on account of the said acts done and performed as aforesaid.

In testimony whereof, as well the said J. P. Massie, as I, the said Consul have hereunto set our hands, and I, the said Drake De Kay have affixed the seal of the Consulate at Magdalena, this, the day and year first herein written.

	JAMES P. MASSIE,
	DRAKE DE KAY,
$\left\{ \begin{array}{c} \text{CONSULAR} \\ \text{SEAL} \\ \text{OF THE U. S.} \end{array} \right\}$	U. S. Consul, Magdalena.

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UNITED STATES CONSULATE,  
AT MAGDALENA, LOWER CAL.

On this 8th day of November, 1871, before me, Drake De Kay, Consul of the United States of America, for the port of Magdalena, personally appeared Thomas J. Riley, an American citizen, "and declared :"

That whereas, one J. N. Vannoy, having come to Magdalena, as a colonist, under a contract with the

Lower California Company and one Moises Puch, for the purpose of settling in the country, and after fulfilling his said contract, he prospected the country and found a rich deposit of silver ore, which he located.

And whereas, afterwards, said Vannoy went to San Francisco, to obtain the capital necessary to develop the same; and upon his representation an association was formed in that city, and a large amount of money was expended for outfit, etc., for the purpose of developing said "deposit," and for prospecting and locating other mines, in which said association he, said Riley, became largely interested.

And whereas, he with two companions, J. P. Massie and said J. N. Vannoy, came here for the purpose of opening and working said mine, and further prospecting.

And whereas, on the 28th day of October, 1871, one Francisco Espenosa Gorostiza, a Mexican official, from La Paz, accompanied by one Manuel J. Cobos, and a boat filled with armed peons, all foreigners, attacked and captured the "Cina Greenwood," an American schooner, engaged in freighting in and about Magdalena Bay, then lying at anchor, and placed the captain, crew and passengers in confinement as prisoners, without any provocation, and without exhibiting any legal process or authority for such proceeding, and claimed by force of arms, absolute control of said bay.

And whereas, by the introduction on the day following of a large number of Mexican soldiers, and by threats and other demonstrations of violence,

the only Mexican official of said port, Fr. Jimenez Mendizabal, collector of customs, and under commission from the supreme government, together with the United States Consul, under whose flag he had sought protection, and with other unoffending persons, were compelled to seek the further protection of the British ship "Comadre," thereby imperilling their lives and greatly alarming innocent men, women and children.

And whereas, that on the 20th day of October, 1871, he with his said companions took passage on the American sloop "W. R. Allen," at Man-o-war Cove for the purpose of going to said mine; that after getting under way said sloop was chased by the said schooner "Cina Greenwood," officered and manned by foreigners, natives of Equador, carrying a large number of Mexican soldiers, under one Contreras, captain and commandate, and captured at Cayuco Bay; that notwithstanding the captain of said sloop exhibited a proper sailing permit from said collector, Mendezabal, said commandate ordered and insisted upon her immediate return, forbidding at the same time, all communication with the shore and threatening Wm. H. Troon, also a passenger on board and bearer of dispatches from the United States Consul at Magdalena to the United States Consul at La Paz, that "if he attempted to deliver any letter or communicate with anyone on shore, he would bind him hand and foot and carry him back a prisoner.

That he with his companions and everyone on board were forcibly compelled to return on said



sloop, pursued by and under guard of said schooner and soldiers.

And whereas, by reason of such outrages, after suffering great mental torture and extreme anxiety for his person at safety, he is now compelled to break up his occupation, abandon said mine and and other property, and seize the only opportunity of escaping from the country and the horrors that a continued story would entail, by taking passage for San Francisco, along with 35 others (Americans), on board a schooner of only 35 tons burden, chartered by the U. S. Consul for that purpose, short of ballast and with only such provisions and water as could be hastily put on board.

And whereas, that by thus taking passage and abandoning his property and interests as aforesaid, he verily believes that he is escaping from the certainty of unprovoked outrages and personal damages,

Now, therefore, know all men by these presents, that on the day of the date hereof, comes the said J. P. M. (Thomas J. Riley), and after stating the facts aforesaid, hath protested as I, the said Consul of the United States, at his special instance and request, do publicly and solemnly protest against the said acts of the said Fr. E. Gorostiza, M. J. Cobos, and against all and every person whom it doth, may or shall concern, especially against the Government of the Republic of Mexico, whose agent and representative, the said Fr. E. Gorostiza, claims to be, for all losses, damages and injury already incurred and sustained, or which may here-

after be incurred or sustained by the said J. P. M. (Thomas J. Riley), for or by reason, or on account of the said acts done and performed as aforesaid.

[Consular Seal  
of the U. S.]

DRAKE DEKAY,  
U. S. Consul at Magdalena.

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UNITED STATES CONSULATE,  
Magdalena Bay, L. C.

On this 8th day of November, 1871, before me, Drake DeKay, Consul of the United States of America for the Port of Magdalena, personally appeared Oliver E. Roberts, an American citizen, "and declared": That whereas, himself and family arrived at Magdalena, Lower California, on or about the 2d day of February, 1871, and has since and up to the 28th day of October, 1871, peaceably, quietly and without molestation resided there, pursuing his legitimate occupation. And whereas on said 28th of October, one Espinosa Gorostiza, a Mexican official from La Paz, accompanied by one Manuel J. Cobos, and a boat filled with armed peons—all foreigners—attacked and captured the *Cina Greenwood*, an American Schooner, engaged in freighting in and about Magdalena Bay, then lying at anchor, and placed the captain, crew and passengers in confinement, as prisoners, without any provocation, and without exhibiting any legal process or authority for such proceeding, and claimed by force of arms the absolute control of said bay.

And whereas, by the introduction, on the day following, of a large number of Mexican soldiers, by threats and other demonstrations of violence, the only Mexican official at said port, Francisco J. Mendizabal, Collector of Customs, under commission from the Supreme Government, together with the United States Consul, under whose flag he had sought protection, and with other unoffending persons were compelled to seek the further protection of the British ship *Comadre*, thereby imperilling the lives of innocent men, women and children.

And whereas, by reason of such outrages, after suffering great mental anxiety for his personal safety and that of his family, he is now compelled to break up his business and home, abandon his property and avail himself of the only means of escaping from the country and the horrors that a continued stay would entail by taking passage for San Francisco along with 35 others—Americans—on board of a schooner of 35 tons burden, chartered by the U. S. Consul for that purpose, short of ballast and with what provisions and water could be hastily put on board.

And whereas, by thus taking passage and abandoning his property and interests, as aforesaid, he verily believes that he is escaping from a certainty of outrage, to hazard the uncertainty of reaching a place of safety, he considers himself damaged in the said abandonment together with the extreme mental torture that he and his family have endured, for which he seeks redress.

Now, therefore, know all men by these presents,

that, on the day of the date hereof, comes the said Oliver E. Roberts, and after stating the facts aforesaid, hath protested, as I, the said Consul of the United States, at his special instance and request do publicly and solemnly protest against the acts of the said Francisco E. Goristiza, M. J. Cobos, and against all and every person whom it doth, may, or shall concern, and especially against the Government of the Republic of Mexico, whose agent and representative the said Francisco E. Gorostiza claims to be, for all losses, damages and injury already received and sustained, or which may hereafter be incurred or sustained by the said Oliver E. Roberts, for, or by reason, or on account of the said acts as aforesaid.

In testimony whereof, as well the said Oliver E. Roberts, as I, the said Consul, have hereunto set our hands, and I, the said Consul, have affixed the seal of the Consulate at Magdalena, this the day and year first herein written.

OLIVER E. ROBERTS.

{ CONSULAR  
SEAL  
OF THE U. S. }

DRAKE DEKAY,

U. S. Consul, at Magdalena.

U. S. CONSULATE

Magdalena Bay, Lower California.

On this 8th day of November, 1871, before me Drake De Kay, Consul of the United States of America for the Port of Magdalena, personally ap-

peared John F. Sellender, an American citizen, and declared:

That, whereas, he arrived at Magdalena, Lower California, in the month of February, 1871, intend-

ing to make this country his permanent place of abode, and has since and up to the 28th day of October, 1871, peaceably and quietly and without molestation, resided here pursuing his legitimate occupation as a farmer.

And, whereas, that on the said 28th October, one Francisco Espinoza Gorostiza a Mexican official from La Paz, accompanied by one Manuel J. Cobos, with a boat filled with armed Peons attacked and captured the *Cina Greenwood* an American schooner engaged in freighting in and upon Magdalena Bay, then lying at anchor at Man of-War Cove, and placed the Captain crew and passengers, all Americans, in confinement as prisoners, without any provocation and without exhibiting any legal process or authority for such proceeding, and claimed by force of arms the absolute control of said Bay.

And, whereas, that by the introduction on the day following of a large number of Mexican soldiers, by threats and other demonstrations of violence, the only Mexican official at said Port, F. J. Mendizabal, Collector of Customs, under commission from the Supreme Government, together with the United States Consul, under whose Flag he had sought protection, and with other unoffending persons, were compelled to seek the further pro-

tection of the British ship *Ccmadre*, thereby imperiling the lives of innocent men, women and children.

And, whereas, by reason of said outrages, after suffering great mental anxiety for his personal safety, he is now compelled to break up his home, abandon his farm and property, and avail himself of the only means of escaping from the country and the horrors that a continued stay would entail, by taking passage for San Francisco along with thirty five others—Americans—on board of a schooner of but 35 tons burden, chartered for that purpose by the U. S. Consul, short of ballast, and with what provisions and water could be hastily put on board.

And, whereas, by thus taking passage and abandoning his property, and interests, as aforesaid, he verily believes that he is escaping from imminent personal danger, and for which he seeks redress.

Now, therefore, know all men by these presents, that on the day of the date hereof, comes the said John F. Sellender, and after stating the facts aforesaid, hath protested, as I, the said Consul of the United States, at the special instance and request do publicly and solemnly protest against the acts of the said F. E. Gorostiza, M. J. Cobos, and against all and every person whom it doth, may, or shall concern, and especially against the Government of the Republic of Mexico, whose agent and representative the said F. E. Gorostiza claims to be, for all losses, damages and injury already

received and sustained, or which may hereafter be incurred or sustained by the said John F. Sellender, for, or by reason, or on account of the said acts done and performed as aforesaid.

In testimony whereof, as well the said John F. Sellender, as I, the said Consul, have hereunto set our hands, and I the said Consul have affixed the seal of the Consulate, at Magdalena, this the day and year first herein written.

{ CONSULAR SEAL }	JOHN F. SELLENDER,
{ OF THE U. S. }	DRAKE DE KAY,
	U. S. Consul at Magdalena.

UNITED STATES CONSULATE,  
Magdalena Bay, Lower California.

On this 8th day of November, 1871, before me, Drake De Kay, Consul of the United States of America, for the port of Magdalena, personally appeared William W. Bennett, an American citizen, and declared :

That, whereas, he arrived at Magdalena, Lower California, in the month of February, 1871, intending to make this country his permanent place of habitation, and has since and up the 28th day of October, 1871, peaceably and quietly and without molestation resided there, pursuing a legitimate occupation.

And, whereas, on said 28th of October, one Francisco Espenoza Gorostiza, a Mexican official

of La Paz, accompanied by one Manuel J. Cobos, and a boat filled with armed peons, all foreigners, attacked and captured the *Cina Greenwood*, an American schooner, engaged in freighting, in and upon Magdalena Bay, then lying at anchor, and placed the Captain, crew and passengers in confinement as prisoners, without any provocation, and without exhibiting any legal process or authority for such proceeding, and claimed by force of arms the absolute control of said Bay.

And, whereas, by the introduction, on the day following, of a large number of Mexican soldiers, and by threats and other demonstrations of violence, the only Mexican official at said port, Francisco J. Mendizabal, Collector of Customs, under commission for the Supreme Government, together with the United States Consuls, under whose flag he had sought protection, and with other unoffending persons were compelled to seek the farther protection of the British ship *Comadre*, thereby causing great alarm and imperiling the lives of innocent men, women and children.

And, whereas, by reason of such outrages, after suffering great mental torture and anxiety for his personal safety, he is now compelled to break up his business, abandon his property and interests, and to seize the only opportunity of escaping from the country and the horrors that a continued stay would entail, by taking passage for San Francisco, along with thirty-five others, Americans, on board a schooner of only 35 tons burden, chartered by the United States Consul for that purpose, short of



ballast, and with what provisions and water could be hastily put on board.

And, whereas, by thus taking passage and abandoning his business, property and other interests, as aforesaid, and without means or money, he verily believes that he is escaping from a certainty of outrage and violence, and from a place in which, under present circumstances, there exists no security for life or property.

Now, therefore, know all men by these presents, that on the day of the date hereof comes the said William W. Bennett, and after stating the facts aforesaid, hath protested as I the said Consul of the United States, at his special instance and request, do publicly and solemnly protest against the acts of the said F. E. Gorostiza, M. J. Cobos and against all and every person, or persons, whom it doth, may, or shall concern, and especially against the Government of the Republic of Mexico, whose agent and representative the said F. E. Gorostiza claims to be for all losses, damages and injury already incurred and sustained, or which may hereafter be incurred or sustained by the said William W. Bennett for, or by reason, or on account of the said acts done and performed as aforesaid.

In testimony whereof, as well the said William W. Bennett as I, the said Consul, have hereunto set our hands, and I the said Consul have affixed the seal of the Consulate at Magdalena, this the day and year first herein written.

WM. W. BENNETT,

{	CONSULAR SEAL	{	DRAKE DE KAY,
	OF THE U. S.		U. S. Consul at Magdalena.

UNITED STATES CONSTLATE,  
Magdalena Bay, Lower California.

On this 8th day of November, 1871, before me, Drake DeKay, Consul of the United States of America, for the port of Magdalena, personally appeared Christoph Spreen, an American citizen, and declared :

That, whereas, he arrived at Magdalena, Lower California, in the month of February, 1871, intending to make this country his permanent place of residence, and has since and up to the 28th day of October, 1871, peaceably and quietly and without molestation resided there pursuing a legitimate occupation.

And, whereas, on said 28th of October, one Francisco Espinoza Gorostiza, a Mexican official from La Paz, accompanied by one Manuel J. Cobos, in a boat filled with armed peons, all foreigners, attacked and captured an American schooner, called the *Cina Greenwood*, engaged in freighting, in and upon Magdalena Bay, then lying at anchor, and placed the captain, crew and passengers in confinement as prisoners, without any provocation, and without exhibiting any legal process or authority, for such proceeding, and claimed by force of arms the absolute control of said Bay.

And, whereas, by the introduction, on the day following, of a large number of Mexican soldiers, and by threats and other demonstrations of violence, the only Mexican official at said port, Francisco J. Mandizabal, Collector of Customs, under commission from the Supreme Government, together with

the United States Consuls, under whose flag he had sought protection, and with other unoffending persons were compelled to seek the farther protection of the British ship *Comadre*, thereby causing great alarm and imperilling the lives of innocent men, women and children.

And, whereas, by reason of such outrages, after suffering great mental torture and anxiety for his personal safety, he is now compelled to break up his business, abandon his property and interests, and to seize the only opportunity of escaping from the country and the horrors that a continued stay would entail, by taking passage for San Francisco, along with thirty-five others, Americans, on board a schooner of but 35 tons burden, chartered by the United States Consul for that purpose, short of ballast, and with what provisions and water could be hastily put on board.

And, whereas, by thus taking passage and abandoning his business, property and other interests as aforesaid, and without means or money, he verily believes that he is escaping from a certainty of outrage and violence, and from a place in which under present circumstances there exists no security for life or property.

Now, therefore, know all men by these presents, that on the day of the date hereof comes the said Christoph Spreen, and after stating the foregoing facts, hath protested as I, the said Consul of the United States, at his special instance and request do publicly and solemnly protest against the acts of the said F. E. Gorostiza, M. J. Cobos, and

against all and every person, or persons, whom it doth, may, or shall concern, and especially against the Government of the Republic of Mexico, whose agent and representative the said F. E. Gorostiza claims to be, for all losses, damages and injury already incurred and sustained, or which may hereafter be incurred or sustained by the said Christoph Spreen, for, or by reason, or on account of the said acts done and performed as aforesaid.

In testimony whereof, as well the said Christoph Spreen, as I the said Consul have hereunto set our hands, and I the said Consul have affixed the seal of the Consulate at Magdalena, this the day and year first herein written.

CHRISTOPH SPREEN,

{ CONSULAR SEAL }  
{ OF THE U. S. }

DRAKE DE KAY,  
U. S. Consul, at Magdalena.

U. S. CONSULATE,

Magdalena Bay, Lower California,

On the 8th day of November, 1871, before me Drake De Kay, Consul of the United States of America, for the port of Magdalena—personally appeared, Robert Rushbrook, an American citizen and declared.

That whereas, he arrived at Magdalena, Lower California, in the month of February, 1871, intending to make this country his permanent place of abode, and has since and up to the 28th day of

October, 1871, peaceably and quietly, and without molestation, resided here pursuing a legitimate occupation.

And, whereas, on said 28th day of October, one Francisco Espinoza Gorostiza, a Mexican official from La Paz, accompanied by one Manuel J. Cobos, and a boat filled with armed Peons, attacked and captured the *Cina Greenwood* an American schooner engaged in freighting in and upon Magdalena bay—then lying at anchor, and placed the captain, crew and passengers in confinement as prisoners, without any provocation and without exhibiting any legal process or authority for such proceedings, and claimed by force of arms the absolute control of said bay.

And, whereas, by the introduction, on the day following, of a large number of Mexican soldiers and by threats and other demonstrations of violence, the only Mexican Official at said port—Francisco J. Mendizabal, Collector of Customs under commission from the Supreme Government, together with the United States Consul, under whose flag he had sought protection, and with other unoffending persons were compelled to seek the further protection of the British Ship *Comadre*, thereby causing great alarm and imperrilling the lives of innocent men, women and children.

And, whereas, by reason of said outrages, after suffering great mental torture and anxiety for his personal safety, he is now compelled to break up his business, abandon his property and interests, and to seize the only opportunity of escaping from

the country and the horrors that a continued stay would entail, by taking passage for San Francisco along with 35 others—Americans—on board a schooner of only 35 tons burden, chartered by the U. S. Consul for that purpose, short of ballast and with what provisions and water could be hastily put on board.

And, whereas, by thus taking passage and abandoning his business, property and other interests, as aforesaid, and without means or money, he verily believes that he is escaping a certainty of outrage and violence, and a place in which, under present circumstances there does not exist any security for life or property.

Now, therefore, know all men by these presents, that on the day of the date hereof, comes the said Robert Rushbrook, and after stating the facts aforesaid, hath protested, as I the said Consul of the United States, at his special instance and request, do publicly and solemnly protest against the acts of the said Francisco E. Gorostiza, M. J. Cobos, and against all and every person or persons whom it doth, may, or shall concern, and especially against the Government of the Republic of Mexico, whose agent and representative the said F. E. Gorostiza claims to be, for all losses, damages, and injury already incurred and sustained, or which hereafter may be incurred or sustained by the said Robert Rushbrook, for, or by reason, or on account of the said acts done and performed as aforesaid.

In testimony whereof, as well the said Robert

Rushbrook, as I, the said Consul have hereunto set our hands, and I the said Consul have affixed the Seal of the Consulate at Magdalena, this the day and year first herein written.

[Consulate Seal  
of the U. S.]

ROBERT RUSHBROOK,

DRAKE DE KAY.

U. S. Consul.

In testimony whereof, as well the said J. P. M. (Thomas J. Riley), as I the said consul, have hereunto set our hands, and I the said consul, have affixed the seal of the Consulate of Magdalena, this the day and year herein mentioned.

THOMAS J. RILEY,

DRAKE DE KAY,

U. S. Consul at Magdalena.

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page 60.*

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UNITED STATES CONSULATE,  
Magdalena Bay, Lower Cal.

On this 8th day of November, 1871, before me, Drake De Kay, Consul for the United States of America, for the port of Magdalena, personally appeared Albert Kattenhorn, an American citizen, "and declared: "

That whereas, that himself and family arrived at Magdalena, Lower California, on or about the 30th day of Jan'y, 1871, and has since and up to the 28th day of October, 1871, peaceably, quietly and without molestation, resided there, pursuing his legitimate occupation.

And whereas, on said 28th day of October, one Francisco Espinoza Gorostiza, a Mexican official from La Paz, accompanied by one Manuel J. Cobos and a boat filled with armed peons—all foreigners—attacked and captured the “Cina Greenwood,” an American schooner, engaged in freighting in and about Magdalena Bay, then lying at anchor, and placed the captain, crew and passengers in confinement as prisoners, without any provocation and without any legal process or authority for such proceeding, and claimed by force of arms the absolute control of said bay.

And whereas, by the introduction on the day following of a large number of Mexican soldiers, and by threats and other demonstrations of violence, the only Mexican official of said port, T. J. Mendizabel, Collector of customs, under commission from the Supreme Government, together with the United States Consul, under whose flag he had sought protection, were compelled with other unfording persons to seek the further protection of the British ship “Comadre,” thereby imperilling the lives of innocent men, women and children.

And whereas, by reason of such outrages he has suffered great mental anxiety and bodily fear (for himself and family), and is now compelled to break up his home abandon his business and property, availing himself of the only means of escaping from the horrors that a continued stay would entail, by taking passage to San Francisco, along with 35 others—Americans—on board a schooner of only 35 tons burden, chartered by the United States



Consul for that purpose, short of ballast and with what provisions and water as could be hastily put on board.

And whereas, by thus taking passage and abandoning his interests as aforesaid, he verily believes that he is escaping from a *certainly* of outrages at the hands of lawless men, and thereby saving the lives of himself and family.

Now, therefore, know all men by these presents, that on the day of the date hereof, comes the said Albert Kattenhorn, and after stating the facts aforesaid, hath protested as I the said Consul of the United States, at his special instance and request, do publicly and solemnly protest against the said acts of the said Fr. E. Gorostiza, M. J. Cobos and against all and every person whom it doth, may or shall concern, and especially against the Government of Mexico, whose agent and representative the said Fr. E. Gorostiza claims to be, for all losses, damages and injury incurred and sustained, or which may hereafter be incurred or sustained by the said Albert Kattenhorn, for or by reason, or on account of the said acts done and performed as aforesaid.

In testimony whereof, as well the said A. Kattenhorn, as I the said Counsel have hereunto set our hands, and I the said counsel have affixed the seal of the Consulate at Magdalena, this the day and year first herein mentioned.

ALBERT KATTENHORN,  
DRAKE DE KAY,  
U. S. Consul at Magdalena.

## UNITED STATES CONSULATE,

At Magdalena Bay, Lower Cal.

On this 8th day of November, 1871, before me, Drake De Kay, Consul of the United States of America, for the port of Magdalena Bay, personally appeared John Nimmo, an American citizen, "and declared: "

That whereas, himself and family arrived at Magdalena, Lower Cal., on or about the 2d day of February, 1871, intending to make this country his future home, and has since and up to the 28th day of October, 1871, peaceably and quietly, and without molestation, resided there pursuing a legitimate occupation.

And whereas, on said 28th of October, one Francisco Espinoza Gorostiza, a Mexican official, from La Paz, accompanied by one Manuel J. Cobos and a boat filled with armed peons—all foreigners—attacked and captured the "Cina Greenwood," an American schooner, engaged in freighting in and about Magdalena Bay, then lying at anchor, and placed the captain, crew and passengers in confinement as prisoners, without any provocation and without exhibiting any legal process or authority for such proceeding, and claimed by force of arms the absolute control of said bay.

And whereas, by the introduction on the day following of a large number of Mexican soldiers, and by threats and other demonstrations of violence, the only Mexican official of said port, Francisco J. Mendizabel, Collector of Customs, under commission from the Supreme Government, together with

the United States Consul, under whose flag he had sought protection, and with other unoffending persons were compelled to seek the further protection of the British ship "Comadre," thereby causing great alarm and imperilling the lives of innocent men, women and children.

And whereas, by reason of such outrages, after suffering great mental torture and anxiety for the safety of himself and family, he is now compelled to break up his home, abandon his business, property and interests, and to seize the only opportunity of escaping from the country and the horrors that a continued stay would entail, by taking passage to San Francisco, along with 35 others—Americans—on board of a schooner of only 35 tons burden, chartered by the U. S. Consul for that purpose, short of ballast, and with what provisions and water as could be hastily put on board.

And whereas, by thus taking passage and abandoning his business, property and other interests, as aforesaid, and without means of subsistence, he verily believes that he is escaping from a certainty of outrage and violence, and from a place in which under present circumstances, there exists no security for life or property.

Now, therefore, know all men by these presents, that on the day of the date hereof, comes the said John Nimmo, and after stating the facts aforesaid, hath protested as I the said Consul of the United States, at his Special request, do publicly and solemnly protest against the acts of the said Fr. E. Gorostiza, M. J. Cobos, and against all and every

person or persons whom it doth, may or shall concern, and especially against the Government of the Republic of Mexico, whose agent and representative the said Fr. E. Gorostiza claims to be, for all losses, damages and injury already incurred and sustained, or which may hereafter be incurred or sustained by the said John Nimmo, for or by reason, or on account of the said acts done and performed as aforesaid.

In testimony whereof, as well the said John Nimmo, as I the said Consul, have hereunto set our hands, and I the said Consul have affixed the seal of the Consulate at Magdalena, this the day and year first herein written.

JOHN NIMMO,  
DRAKE DE KAY,  
U. S. Consul at Magdalena.

MAGDALENA BAY.

November, 2d, 1871.

COL. DRAKE DE KAY,  
U. S. Consul,

SIR :

It becomes my duty to report to you an outrage committed on the American Sloop *W. R. Allen*, under my command, by an armed force under orders, as reported, from one Gorostiza, who it seems by force of arms has declared himself Administrador at Man-of-War

Cove. The circumstances are as follows : I left Man-of-War Cove on the 30th of October at 10-30 P. M., with a moderate breeze from N. N. W. nothing of note occurring until the morning of 31st; at 6 A. M., a sail was discovered astern and evidently in chase, the wind at this time being light, we had recourse to sweeps to prevent drifting in the Lee bay. At 8 A. M. a whale boat seemingly crowded with men hove in sight; gaining on us rapidly, at 8-30. A. M. the boat stopped about fifty yards from the Sloop, hailed and ordered the Sloop to be kept away for Man-of-War Cove; the Sloop's position then being one mile S. W. from Cayuco. (I forgot to state above that I was bound to Cayuco, a distance of thirty five miles from Man-of-War Cove, for beef cattle and water, the people at Man-of-War Cove being very short of provisions and water.) I demanded of the officer in charge by what authority I was thus prevented from proceeding on my voyage. The officer in charge replied that he was acting under orders from Gorostiza, Administrador at Man-of-War Cove; I replied to him that I knew of no Administrador at Man-of-War Cove but Señor F. J Mendizabal, from whom I had a regular permit such as the vessels on the Bay and Lagoons receive from him. This the officer in command replied he had nothing to do with; my orders, said he, are preemptory. He then ordered his boat alongside and took a line, there were nine armed soldiers in the boat and an officer, and three of boats crew.

My passengers loudly protested against not be-

ing allowed to go on shore, that they had nothing whatever to do with the vessel, but were private citizens on their way to Magdalena Island. The officer remarked that if the vessel was caught, that his orders were, that no one should go on shore. I pointed out to him the consequences of detaining a vessel on the high seas, and of the importance it was to me to reach my destination, to procure beef cattle, provisions and water; all of which he said might be true, but that I must return with the Sloop immediately. I reluctantly returned under convoy of the schooner *Cina Greenwood*, with some twenty Mexican soldiers keeping close to me to Man-of-War Cove, at 1-30 A. M. 1st November.

Trusting that you will make the necessary report to our Government,

I Remain, Very Respectfully,

Your Obedient Servant,

J. COLLINS,

Commander Sloop *W. R. Allen*.

J. P. MASSIE,

T. J. REILY,

J. N. VANNOY,

JOHN MOTT,

WM. H. TROON,

Passengers.

A true copy of letters original, received at, and on file in this Consulate, on board Schooners *Ellen and Catherine*.

DRAKE DE KAY,  
U. S. Consul.

Magdalena Bay, November 2, 1871.

[ Consular Seal  
of the U. S. ]

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*Eleven individual Protests of Citizens  
not yet printed.*





GOBIERNO POLITICO Y COMANDANCIA MILITAR }  
DE LA BAJA CALIFORNIA. }

Ha sido nombrado por el Supremo Gobierno Contador de la Aduana Marítima de la Magdalena de este Territorio, el Sr. D. Francisco Jimenez Mendizabal, quien sale hoy de esta ciudad para dicho puerto á encargarse con tal caracter de la expresada Aduana, por haber renunciado el Sr. D. Francisco E. Gorostiza el nombramiento que en su persona se hizo, de Administrador de aquella oficina.

En consecuencia, se le guardarán al propio Sr. Mendizabal todas las consideraciones que demanda el caracter oficial que lleva, á cuyo fin este Gobierno ha dispuesto dirigirle á V. la nota presente que abierta le entregará el mismo Sr. Jimenez.

\* \* \* \* \*

Independencia y libertad. La Paz, Junio 30 de 1871.

(Firmado)

B. DAVALOS.

RAMON MARTINEZ, *Secretario*.

Sr. Secretario de la Compañía Colonizadora de los Terrenos de la Baja California, Puerto de la Magdalena.

MAGDALENA, Setiembre 8 de 1871.

Sr. D. Francisco Jimenez Mendizabal, Administrador de Aduana, etc.—Sírvasse Vd. permitir que la balandra Americana *W. R. Allen*, su capitan Collins, pase de Man-of-war Bay á Cayuco y los esteros de la bahia para conducir víveres á los trabajadores, agua y herramientas, y conducir orchilla por este depósito por los vapores, etc.

Por el CAPITAN ISHAM,  
Superintendente General (Ausente),  
(Firmado) DRAKE DE KAY.

ADUANA MARITIMA DE LA }  
BAHIA DE LA MAGDALENA. }

Permítase á la balandra *Allen* pasar las veces que quiera á los puntos indicados.

JIMENEZ MENDIZABAL.

ADUANA MARITIMA DE LA }  
BAHIA DE LA MAGDALENA. }

Interin el Supremo Gobierno de la Nacion, á quien tengo dada cuenta de los actos de esta Aduana, que es á mi cargo, resuelve lo conveniente, suplico á V., como Cónsul de los Estados Unidos en este puerto, que ampare bajo su bandera americana, tanto mi persona, como los intereses que administro, de la Hacienda pública, de cualquier acto arbitrario, y sin ley espresa que lo autorice, de las autoridades política y civil del Territorio.

Como dejo espuesto, esto solo durará, mientras el Supremo Gobierno General de la Na-

cion, ordena lo que debe hacerse, y á quien igualmente le doy cuenta de este acontecimiento, pues mi intencion no es otra que evitar un atropellamiento ocasionado por la escandalosa conducta que está observando Cobos y Monroy, ante aquellas autoridades, para nulificar los procedimientos de esta oficina, en su contra como contrabandistas, considerado por los artículos de la ordenanza general marítima, en su última importacion de efectos, sin documentos legales, que han hecho en la goleta Ecuatoriana *Amelia*.

Dígnese V. contestar de enterado de este asunto á esta oficina, para normar sus actos, y de aceptar las protestas de mi distinguido aprecio.

Independencia y libertad. Man-of-war, Octubre 9 de 1871.

El Administrador Interino,  
(Firmado) FRANCISCO JIMENEZ MENDIZABAL.

C. Cónsul de Estados Unidos Americanos en este puerto de Magdalena.

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ADUANA MARITIMA DE LA BAHIA DE LA  
MAGDALENA.

### C I R C U L A R .

Habiendo sido ocupado en la mañana del día 28 del actual este puerto por una partida de tropa acaudillada por Cobos y Gorostiza, quienes no han presentado títulos legales del Supremo Gobierno General de la Nacion, y siendo como lo es público y notorio el carácter hostil con que en virtud de la

fuerza armada han tomado posesion, desde luego la Aduana de mi cargo, cumpliendo con lo prevenido en la Circular del Supremo Gobierno, espedida en 22 de Febrero de 1832, en su artículo primero que dice :

“ El Gobierno declarará cerrado para el comercio extrangero y de escala y cabotaje, cualquier puerto de la República que esté ó eatubiere ocupado por fuerzas que no le obedezcan.”

En consecuencia al haber atropellado á esta oficina, el C. Gorostiza, queriendo ejercer sus funciones sin título legal, solo apollado en la fuerza de las armas, y siendo como es que el que suscribe tiene todo el caracter que le dan las leyes con título del Supremo Gobierno de la Nacion, por esta misma causa, mientras la fuerza armada ocupe la parte de tierra de esta isla, donde he establecido la Aduana Marítima, se considerará comprendida en lo dispuesto por el artículo ya citado, quedando, entretanto vienen órdenes supremas de la capital de la República y del Gobierno General, establecida la verdadera oficina ó Aduana, á bordo de la fragata inglesa *Comadre* protegida y amparada por los pabellones de Inglaterra y Estados Unidos de Norte América; no debiendo U. obedecer mas órdenes que las que emanen de esta Aduana, que desconoce toda autoridad legal en el C. Gorostiza.

Independencia y libertad. Bahia de Magdalena,

á bordo de la Fragata Inglesa *Comadre*, Octubre 30 de 1871.

El Administrador Interino,  
(Firmado) FRANCISCO JIMENEZ MENDIZABAL.  
C. Cónsul de Estados Unidos de Norte América,  
residente en este puerto, presente.

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BENITO JUAREZ,

*Presidente Constitucional de los Estados Unidos  
Mexicanos.*

Vista la patente que el Presidente de los Estados Unidos de América expidió con fecha primero de Junio último al Señor Drake De Kay, nombrándolo Cónsul de los Estados Unidos en Magdalena, Baja California, le concedo el presente Exequatur, con arreglo al artículo cuarto de la ley de 26 de Noviembre de 1859; en cuya virtud el Señor Drake De Kay puede entrar al ejercicio de sus funciones.

Dado en la ciudad de México, firmado de mi mano, autorizado con el sello de la nacion y refrendado por el Secretario de Estado y del Despacho de Relaciones Exteriores, á veintiocho de Julio de mil ochocientos setenta.

(Firmado) BENITO JUAREZ.

(Firmado) S. LERDO DE TEJADA,  
Ministro de Relaciones Exteriores.

(Sello de la Nacion.)

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En la mañana del día 28 de Octubre próximo

pasado una partida de tropa, mandada de La Paz, y acaudillada por D. Manuel Cobos, ciudadano del Ecuador, y el contador de la Aduana de La Paz, Francisco Espinosa y Gorostiza, han venido á este puerto marítimo de la bahía de la Magdalena, y lo han ocupado, atropellando mi autoridad, como administrador interino y contador nato, que soy, nombrado por el supremo gobierno de la capital de Méjico. Como las aduanas marítimas estan solamente sometidas al Ministerio de Hacienda, sus órdenes las reciben por la tesorería general de la Nacion. En consecuencia, ninguna oficina tiene ingerencia en ellas. Al cometer este acto atentatorio el C. Gorostiza, tuve presicion de ampararme, con la oficina que es á mi cargo, de los pabellones de los Estados Unidos de Norte América, y de la Gran Bretaña, puesto que ninguna otra autoridad mejicana existía en el puerto que ocupaba mi administracion. Este paso no fue bastante para contener el atropellamiento que despues se cometió, por aquel funcionario y sus cómplices Cobos, y Susano Rosas, administrador del papel sellado de La Paz, respecto al Cónsul de los Estados Unidos del Norte y sus nacionales, residentes en aquel Puerto, hasta el grado de haber tomado á viva fuerza, haciendo uso de las armas, a balazos, una goleta americana llamada *Cina Greenwood*, sino que tambien á bordo de la fragata inglesa *Comadre*, se cometió las faltas de pasar, los sitados individuos y sus soldados armados, para perseguir al Cónsul que tomó asilo en la citada fragata. El Cónsul americano y sus nacionales, en lo que han sido posible (sin que-

rer por parte de ellos comprometer á ambas repùlicas), se han manejado perfectamente bien, y han procurado ayudarme á poner á salvo mi persona é intereses de la Nacion Mejicana. Pero como han sido atropellados, personalmente, y sus pabellones lo mismo, han elevado por los órganos oficiales sus reclamaciones contra estos atentados, al Ministro de Estados Unidos de Norte América residente en Méjico, quien la hará dando conocimiento al gabinete de Washington. Y como Vd. se encuentra ejerciendo las funciones de ministro mejicano cerca de ese gobierno he creído oportuno y necesario ponerlo al tanto de estos acontecimientos para que pueda llevar á buen terreno ésta cuestion internacional, llegado el caso, no obstante que, me dirijo á la capital de la repùblica, á dar cuenta de mis actos, ante el C. Ministro de Hacienda y Crédito Público.

Esta ocasion me proporciona por la primera vez, la de ofrecermé á sus órdenes.

Independencia y libertad. San Francisco, California, Diciembre 6 de 1871.

(Firmado) FRANCISCO JIMENEZ MENDIZABAL.

C. Ministro Mejicano, residente en Washington.

ADUANA MARITIMA DE LA  
BAHIA DE LA MAGDALENA. }

La Compañia de la Baja California tiene pagados (en oro) hasta esta fecha, novecientos noventa y nueve pesos y setenta y dos centavos, por pilotaje, anclaje, faro y toneladas, así mismo, de varios dere-

chos de efectos que ha importado; todos estos derechos con arreglo al arancel de aduanas marítimas vigente de la República Mejicana. (\$999 72.)

Cayuco, Setiembre 30 de 1871

El Administrador Interino,

FRANCISCO JIMENEZ MENDIZABAL.

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ADUANA MARITIMA DE LA }  
BAHIA DE LA MAGDALENA. }

La Compañía de Baja California tiene pagados (en oro) á esta Aduana, la cantidad de mil setecientos setenta y cuatro pesos cuarenta y dos centavos; esta suma es, por anclaje, pilotaje, faro y toneladas, lo mismo que por varios derechos de efectos que ha importado incluyendo en esta cantidad el valor del papel sellado y correo; quedando por consiguiente hasta esta fecha, sin deuda alguna con la Aduana. (\$1,764 42.)

Bahía de Magdalena, Octubre 22 de 1871.

El Administrador Interino,

FRANCISCO JIMENEZ MENDIZABAL.

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